IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 21ST NOVEMBER 2006 / 30TH KARTHIKA 1928

Crl.MC.No. 741 of 2006()

CRRP.22/2005 of SESSIONS COURT, KALPETTA
ST.40/2005 of JUDICIAL MAGISTRATE OF FIRST CLASS, KALPETTA.

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PETITIONER/REVISION PETITIONER:

BINOY FRANCIS, S/O. FRANCIS,
PULIKKAL HOUSE, RAMAGIRI, KRISHNAGIRI P.O.,
SULTHAN BATHERY, WAYANAD DISTRICT.

BY ADV. SRI.GEORGE ABRAHAM

RESPONDENTS: COMPLAINANT & STATE:

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1. O.D. THOMAS, S/O. DEVASSIA,
OLIKKAL HOUSE, MANIYANKODE,
P.O. KALPETTA NORTH, WAYANAD DISTRICT.

2. THE STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA
ERNAKULAM, COCHIN-682 031.

BY PUBLIC PROSECUTOR SRI.K.A.AKBAR
SRI.P.V.JYOTHI PRASAD

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 21/11/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.741 of 2006

Dated this the 21st day of November 2006

O R D E R

This Crl.M.C is filed by the petitioner who faces indictment in a prosecution under Section 138 of the Negotiable Instruments Act. The signature in the cheque is admitted. The cheque is type written. It is the case of the complainant that the type written cheque was brought and the signature was affixed in his presence. The trial is in progress. The petitioner filed an application to get the cheque sent to the expert for examination. The precise purpose urged is to ascertain the age difference between the signature and the type written other entries. The learned Magistrate turned down the said prayer. The decision was challenged before the court of revision and the learned Sessions Judge, by the impugned order, a copy of which is produced as Annexure A, rejected the said prayer.

2. In law, a second revision petition is not maintainable. That obviously explains why the petitioner has come to this court through the door of a Crl.M.C describing the petition to be one for invocation of the jurisdiction under Section 482 Cr.P.C.

3. In view of the specific bar against the second revision and considering the facts and circumstances of this case, I am not at all

persuaded to invoke the extraordinary inherent jurisdiction available to this court under Section 482 Cr.P.C to interfere with the impugned rejection of the prayer to send the cheque to the expert endorsed by the court of revision.

4. It is not necessary for me to advert to facts in any greater detail or express any authentic or final opinion about the acceptability of the prayer. Suffice it to say that at this stage, I intend only to express the opinion that there are no circumstances justifying the invocation of the jurisdiction under Section 482 Cr.P.C.

5. This Crl.M.C is in these circumstances dismissed but with the observation that the dismissal of this Crl.M.C shall not fetter the rights of the petitioner to take up all appropriate contentions and to challenge the impugned order also along with the final judgment in the case, if such challenge be found to be necessary.

(R.BASANT, JUDGE)

jsr

R.BASANT, J

C.R.R.P.No.

ORDER

21ST DAY OF JULY 2006